continue to enrich the St. Louis community for years to come.●

INTERNET TAX FREEDOM ACT

● Mr. CLELAND. Mr. President, the Internet, as an growing form of communication, commerce, and information exchange, is a powerful medium for all who are able to take advantage of the opportunities it presents. The initial version of S. 442, the Internet Tax Freedom Act, would, in my opinion, have provided this already powerful tool with even more competitive advantages. Frankly, I believed that the original version was too one-sided in aiding Internet-based businesses at the expense of other interests. However, I was very pleased with the willingness of the authors of this bill to address the concerns raised by state and local governments as well as ''Main Street'' business owners in such a way that I was able to support the final bill.

The final version of S. 442 contains several positive features. Among those is the inclusion of the Hutchinson amendment, which will allow the Commission created by S. 442 to examine the impact of all types of remote sales. Every year states lose billions of dollars in revenue from remote sales, most recently via the Internet but also in catalog sales. The Hutchinson amendment, which is faithful to the recommendation of the Finance Committee, makes a proper and relevant expansion of the mandate of the Commission.

Not all states and municipalities have imposed taxes on the Internet. However, those that have should not have their Constitutional right to impose these taxes stripped away by Congress. The grandfathering of existing taxes on electronic commerce contained in the final version of S. 442, is consistent with our federalist system and balances the needs of interstate commerce with the proper role of states and municipalities.

Although these and other positive provisions in S. 442 allowed me to support the overall bill, I am hopeful that the initial concerns I had with S. 442 will not arise again when the three year moratorium established by the bill expires. The purpose of this temporary moratorium is to allow government and industry representatives time to work together to decide the rules for electronic commerce. However, S. 442 offers no guarantee that the moratorium will not be extended after the three year period. I supported Senator GRAHAM's amendment that would have required a super majority to extend the moratorium, but unfortunately, it was defeated.

There is a precedent of another ''temporary'' moratorium that never expired. In 1959, Congress enacted Public Law 86–272, which limited state corporate income tax collection on out-of-state corporations. Like the goal of the Commission created by S. 442, a moratorium was imposed to try to negotiate a uniform standard with regard to the tax treatment of out-of-state corporations. The results of P.L. 86–272 was an increase in litigation and a decrease in state and local tax revenue. This precedent explains state and local leaders' skepticism about a temporary Internet tax moratorium. It is my hope that when the three year moratorium expires, Congress will not extend the moratorium. The experience of P.L. 86–272 does not need to be repeated.

I fear that a continuation of the moratorium would tilt the scales heavily in favor electronic commerce at the expense of local ''Main Street'' businesses. Internet sales should not receive any privileges that are not available to other forms of commerce. Business competitors of Internet-based firms should not have to experience such legalized discrimination.

Although the use of computers will certainly continue to grow, there will always be consumers who will not have access to the Internet. If attempts are made to extend the three year moratorium, Congress will, in effect, be offering a tax break to those who can afford a computer and Internet access to the detriment of those who cannot.

I wanted to take this opportunity to applaud the efforts that have been made to address this rapidly emerging form of trade, and I believe that the compromise version of S. 442 is an appropriate balance that will give the Commission time to make a recommendation while not greatly interfering with interstate commerce. However, I urge caution by my colleagues, when we revisit this issue in three years, that in our zeal to encourage the growth of the Internet and all the promise it offers we should not compromise the needs of our states, cities, towns, and local merchants. I pledge my efforts to achieve that goal.●

AUTO CHOICE REFORM ACT

● Mr. SHELBY. Mr. President, while I know that the Senate will not take up consideration of S. 625, The Auto Choice Reform Act of 1997, during the 105th Congress, I wanted to put my views regarding this legislation on the record.

S. 625 creates a federally mandated two-tracked automobile insurance system under which car owners would have the option to enroll in a ''personal protection system'' or the traditional ''tort maintenance system.'' Those who select the personal protection system are promised ''prompt recovery'' of economic loss, regardless of fault. However, they forfeit the right to recover damages for pain and suffering while being exempted from liability for such damages themselves.

I have some strong concerns regarding this type of so-called ''reform'' legislation.

First and foremost, I believe that the argument that ''Auto Choice'' will reduce insurance premiums is unfounded. Over the last few years, the numerous states that have adopted no-fault insurance programs similar to those in this legislation have had the highest premiums in the country. In fact, in 1995, 6 out of the 10 states with the highest average liability premiums were no-fault systems. In light of the failure of auto choice to lower premium costs, I cannot understand why we are seeking to put such a system into place across the country.

I am also greatly troubled by the fact that this bill involves an attempt by the federal government to impose a one-size-fits-all solution on the states. While I recognize that some reforms are necessary, I do not believe that federalizing our tort system, is, or should be the solution.

For more than 200 years, states have had the power to develop and refine their own tort systems. Supreme Court Justice Powell wisely observed: ''Our 50 states have developed a complicated and effective system of tort laws and where there have been problems, the states have acted to fix those problems.'' Mr. President, federally directed reform efforts such as those contained in S. 625 detract from the states' abilities to fashion their own initiatives and deny them the opportunity to provide solutions to meet their own particularized needs.

Furthermore, I am troubled by the fact that this bill allows people to waive their right to recover for non-economic damages. Mr. President, such a provision could lead to a lifetime of pain and suffering for those who suffer massive injury in a car accident. In fact, that possibility is so high, no state, not one, allows its citizens to choose to waive their right of recovery for pain and suffering.

Consider the fact that in all likelihood people would ''choose'' to waive these rights when they are sitting in their den, filling out their insurance forms. Mr. President, I would argue that the timing of such a choice precludes the possibility of informed consent on the part of the consumer. No one can predict the future, people cannot say whether they will need to pursue recovery for some accident. I predict that, many of those who so choose will one day find that they guessed wrong. Mr. President, checking off a box on a form could forever cost someone the ability to seek damages for loss of a limb, blindness, loss of a child or permanent disfigurement. This legislation does not provide a choice, it opens people up to take an unnecessary chance.

This legislation contains another flaw in that it does not fully protect the rights of those who choose traditional tort protection. Someone who chooses tort law coverage can only seek complete access to the courts if the at-fault driver has also selected traditional tort law coverage. Thus, a victim in an accident has to hope to be lucky enough that the person that hits him has selected the ''right'' type of coverage. Again, what appear to be